

NON-CONFIDENTIAL

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

Appeal No. 15-2009

AQUA SHIELD, INC.

Appellee-Cross Appellant,

v.

INTERPOOL POOL COVER TEAM, ALUKOV HZ SPOL. S.R.O.,
ALUKOV SPOL, S.R.O., AND POOL & SPA ENCLOSURES, LLC,

Appellants.

On Appeal from the United States District Court
for the District of Utah in Case No. 2:09-cv-00013, Judge Ted Stewart

**APPELLANTS, INTER POOL COVER TEAM'S, ALUKOV HZ
SPOL., S.R.O., ALUKOV SPOL, S.R.O., AND POOL & SPA
ENCLOSURES, LLC'S MOTION TO EXTEND TIME FOR FILING
OPENING BRIEF FOR TWENTY FOUR (24) DAYS FROM
NOVEMBER 9, 2015 TO DECEMBER 4, 2015; SUPPORTING
DECLARATION**

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*Attorneys for Appellants, Inter Pool Cover Team, Alukov HZ Spol., S.R.O.,
Alukov Spol, S.R.O., and Pool & Spa Enclosures, LLC*

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4, Appellants, Inter Pool Cover Team, Alukov HZ Spol., S.R.O., Alukov Spol, S.R.O., and Pool & Spa Enclosures, LLC timely filed Certificates of Interest and provides that information as follows:

1. The full name of every party or amicus represented in the case by me is:

Inter Pool Cover Team, Alukov HZ Spol., S.R.O., Alukov Spol, S.R.O., and Pool & Spa Enclosures, LLC.

2. The name of the real parties in interest represented by me is:

None.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curie represented by me are:

None.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this Court are:

See the Addendum to Appellants' Certificate of Interest on the following page.

ADDENDUM TO APPELLANTS' CERTIFICATE OF INTEREST

Counsel for Appellants, Inter Pool Cover Team, Alukov HZ Spol., S.R.O., Alukov Spol, S.R.O., and Pool & Spa Enclosures, LLC provide the following:

The names of all law firms and partners or associates that appeared for the parties now represented by me in the agency or that are expected to appear in this court are:

COFFEY & ASSOCIATES:

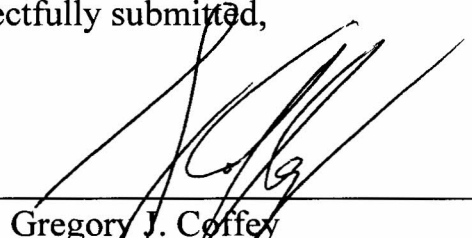
Gregory J. Coffey
Richard J. Dewland

TRASK BRITT, PC:

H. Dickson Burton
Brandon Meachem

Respectfully submitted,

By: _____


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Counsel for Appellees

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellants, Inter Pool Cover Team (“IPC”), Alukov HZ spol. S.r.o., Alukov, spol, S.r.o. (“Alukov”), and Pool & Spa Enclosures, LLC (“Pool & Spa”) (collectively referred to herein as “Appellants”) respectfully move for an extension of time, to and including December 4, 2015, in which to file their opening brief.

Appellants’ opening brief is currently due on November 9, 2015. Appellants seek a twenty-four (24) day extension of time, to and including December 4, 2015, in which to file their opening brief. Prior to filing this motion with the Court, counsel for Appellants contacted counsel for Appellees and Cross-Appellants, Aqua Shield, Inc. (hereinafter referred to as “Aqua Shield”) by e-mail to advise him that Appellants would seek a brief extension of time, to and including December 4, 2015 in which to file their opening brief. By electronic mail dated November 5, 2015, counsel for Aqua Shield advised that it did not object to and would not oppose Appellants’ request for an extension of time, to and including December 4, 2015, in which to file their opening brief.

Appellants have not previously requested any extension of time to file their opening brief. As set forth within the attached Declaration of Gregory

J. Coffey, Esq., the within motion is based upon counsel's request for a brief extension of the submission date necessitated by a medical procedure.

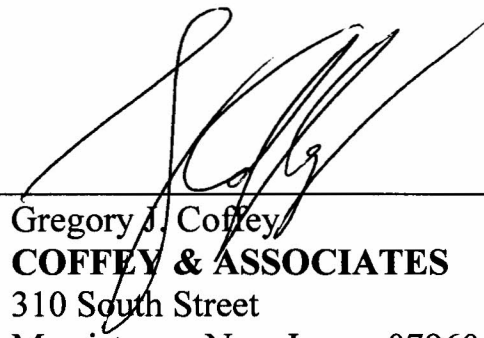
Exceptional circumstances exist for the requested brief extension, as set forth in detail in the attached Declaration of Gregory J. Coffey. Mr. Coffey is compelled to undergo a necessary medical procedure that along with recovery time will keep him out of the office for approximately two weeks. Mr. Coffey served as designated trial counsel for Appellants and conducted the entire trial and all related proceedings on Appellants' behalf in the United States District Court for the District of Utah.

Counsel for Appellants has at all times exercised diligence to provide the United States District Court with timely and professional briefing. The brief extension of time requested herein would enable counsel to do the same in this Court. Furthermore, no significant delay of this matter will result from such a brief extension. The appeal was filed on or around September 9, 2015 and with the requested extension, the opening brief would still be completed within ninety (90) days of the filing of this appeal.

For these reasons, and the reasons set forth in the attached Declaration of Gregory J. Coffey, Appellants respectfully request that this motion be

granted and that they be allowed until and including December 4, 2015 in which to file their opening brief.

By: _____


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Counsel for Appellants

Dated: November 5, 2015

DECLARATION OF GREGORY J. COFFEY

Gregory J. Coffey, Esq. of full age being duly sworn according to law, deposes and says:

1. I am an attorney at law of the State of New Jersey, and I am admitted to practice in the United States Court of Appeals for the Federal Circuit. I am a member of the law firm of Coffey & Associates, counsel for Appellants, Inter Pool Cover Team, Alukov HZ spol. S.r.o., Alukov, spol. S.r.o., and Pool & Spa Enclosures, LLC (collectively referred to herein as “Appellants”) in the within appeal. In accordance with Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), I respectfully submit this declaration in support of Appellants’ motion for an extension of time, to and including December 4, 2015, in which to file their opening brief. Except as otherwise stated, the matters set forth herein are based upon my personal knowledge, and I could and would testify competently thereto if called upon to do so.

2. I served as designated trial counsel for Appellants and conducted the entire trial and all related proceedings on Appellants’ behalf in the United States District Court for the District of Utah.

3. Appellants filed their notice of appeal on September 9, 2015. Appellants’ opening brief is currently due on November 9, 2015.

4. Prior to filing this motion, I contacted Todd Zenger, Esq., counsel for Appellee and Cross-Appellant, Aqua Shield, Inc. (“Aqua Shield”) by e-mail to advise him that Appellants would seek a brief extension of time, to and including December 4, 2015, in which to file their opening brief. By electronic mail on November 5, 2015, Mr. Zenger advised that he did not object to and would not oppose Appellants’ request for an extension of time, to and including December 4, 2015, in which to file their opening brief.

5. Appellants have not previously requested any extension of time to file their opening brief in this appeal.

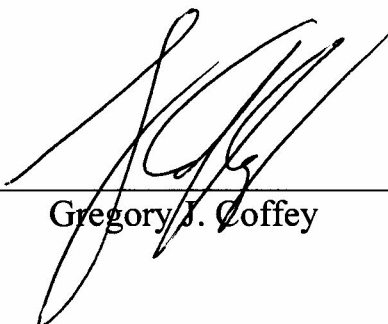
6. A brief extension, through and including December 4, 2015 is necessary to provide counsel for Appellants sufficient time to prepare their opening brief. Such a brief extension is necessary because of personal medical circumstances as I was recently advised that I need to undergo a medical procedure that along with recovery time will require me to be out of the office for approximately two weeks.

7. The preparation and submission of Appellants’ opening brief represents a complex and time-consuming task, especially in a complex patent action.

8. No significant delay of this matter will result from such a brief extension. The appeal was filed on or around September 9, 2015 and with the requested extension, the opening brief would still be completed within ninety (90) days of the filing of this appeal.

9. For all of the foregoing reasons, Appellants respectfully submit that exceptional circumstances exist to briefly extend the submission date for Appellants' opening brief to and including December 4, 2015.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Gregory J. Zoffey

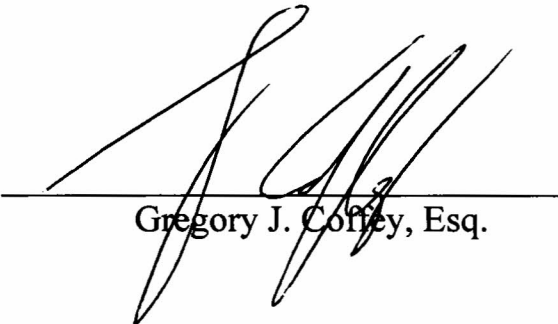
Dated: November 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2015, I caused one (1) copy of Appellants Motion to Extend the Time Period with which to Submit Their Opening Brief up to and Including December 4, 2015, and Declaration of Gregory J. Coffey, Esq., in support thereof, to be electronically filed in PDF format with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Todd E. Zenger, Esq.
KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Gregory J. Coffey, Esq.

Dated: November 5, 2015